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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,533	12/13/2000	Judith N. Narthey	33793US	8271

32223 7590 10/03/2002

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

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DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/736,533	Applicant(s) NARTEY ET AL.	
	Examiner Kevin R Kruer	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 6-8, 10-12, 15-18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada (US 5,194,109). Yamada teaches a laminate comprising a PVDC core layer, and a base layer adhered to either side of said core layer (col 5, line 45). The adhesive may comprise styrene-isoprene copolymer or styrene-butadiene copolymer (abstract). The base layer may comprise polyethylene (claim 10), which applicant discloses as an appropriate seal layer (see page 12, line 4 of specification).
2. Claims 1-3, 5-8, 10-13, 15-18, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Percec et al. (US 5,084,352). Percec teaches a multi-layered barrier film comprising a first polymeric film layer having low permeability to moisture, and a heterogeneous polymer blend film containing a gas barrier polymer and a second polymer distributed in the gas barrier polymer so as to allow the heterogeneous polymer blend film to adhere to the first polymer film (abstract). The gas barrier film may comprise PVDC (col 3, line 59). The first polymeric film may comprise a polyolefin (col 3, line 62), such as LLDPE. Note, applicant teaches the seal layer (claimed layer B) may comprise LLDPE (see page 12, line 4 of specification). The heterogeneous blend

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may be used as a tie layer to join outside layers such as A/(A/B)/B films, wherein A is a polyolefin, and B is a gas barrier resin (col 4, lines 12+). The laminate may further comprise another layer of styrene-isoprene or styrene-butadiene block copolymers (col 6, line 30). In such an embodiment, a tie layer comprising the block copolymer and PVDC may be utilized between said block copolymer layer and the PVDC layer (col 6, lines 39+). The laminate may be made via coextrusion (col 3, line 44).

3. Claims 1-13 and 15-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin et al (US 5,292,590). Lin teaches a laminate comprising a PVDC gas barrier layer sandwiched between two layers of elastomeric material (abstract). The elastomeric material may comprise styrene-butadiene block copolymers sold under the trade name "Kraton. (col 5, line 27)." To ensure good bonding is achieved between the barrier layer and the surface layers of the laminate, an adhesive or a tie layer is applied (col 4, lines 6+). The laminate may be coextruded (see example 1). The examiner takes the position that the surface layer of the laminate reads on claimed layer C of the invention because the surface layer is designed to give strong adhesion to the carcass ply of the tire (col 5, lines 15+).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al (US 5,292,590), as applied to claims 1-13 and 15-23 above, and further in view of Schirmer (US 4,847,148) or Newman Jr. et al (US 3,645,838). Lin is relied upon as above, but does not teach the claimed adhesive compositions of claim 14. However, Schirmer and Newman both teach a PVDC film adhesively attached to a styrene-based substrate (see abstracts). Schirmer teaches that ethylene/acrylate copolymers and ethylene vinyl acetate copolymers may be utilized as the adhesive (col 4, lines 4+). Newman similarly teaches that ethylene/acrylate copolymers and ethylene vinyl acetate copolymers may be utilized to adhere PVDC to styrene-based substrates. Thus, it would have been obvious to one of ordinary skill in the art to utilize ethylene vinyl acetate as the tie layer of the laminate taught in Lin because Schirmer and Newman each teach that EVA is functionally equivalent to the ethylene/acrylate copolymer taught in Lin for the purpose of adhering PVDC to styrene-based substrates.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday from 7:00a.m. to 4:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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KRK

Paul Thibodeau
Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700